

REMARKS

The Office Action mailed June 8, 2007 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Claim Status and Amendment to the Claims

Claims 1, 3-6, 8-11, 13-16, 18-21, 23-26, 28-30, 35, and 37-42 are now pending.

No claims stand allowed.

Claims 1, 11, 21, and 35 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found in the specification, figures, and claims as originally filed. The text of claims 3-6, 8-10, 13-16, 18-20, 23-30, and 37-42 is unchanged, but their meaning is changed because they depend from amended claims.

Claims 2, 7, 12, 17, 22, 27, 31-34, 36, 41, and 43-44 have been cancelled, without prejudice or disclaimer of the subject matter contained therein.

The First 35 U.S.C. § 102 Rejection

Claims 1-8, 10-18, 20-28, and 30-42 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Folkes et al.¹, of which Claims 1, 11, 21, 31, 33, and 35 are independent claims.²

According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.³

¹ U.S. Patent No. 2003/0218982.

With this Amendment, Claims 31-34 have been cancelled without prejudice or disclaimer, rendering the rejection moot as to Claims 31-34. Also with this Amendment, independent apparatus claim 1 has been amended to include the limitations of dependent claims 2 and 7, independent means-plus-function claim 11 has been amended to include the limitations of dependent claims 12 and 17, *In re Beauregard* claim 21 has been amended to include the limitations of dependent claims 22 and 27, and method claim 35 has been amended to include the limitations of dependent claims 36 and 41. Generally, independent claims 1, 11, 21, and 35 have been amended to recite in part transmitting a hitless restart event based upon an event associated with said execution of said dynamic routing module, said hitless restart event signaling network enabled devices to continue forwarding packets to a cluster of network enabled devices, said routing device configured to route information for the cluster. This is not taught by the cited art of record.

Regarding the limitations of presently cancelled dependent claims 7, 17, 27, and 41, the Examiner states:

... Folkes et al. teaches a routing device of claim 1 further comprising a communication module ([0005] Hello protocol layer, i.e., communication module, wherein said communication module transmits (sending Hello packets) a hitless restart event based upon an event associated with said execution of said dynamic routing module ([0048], [0049] e.g., a hitless restart is interpreted as corresponding to a seamless initialization of the backup processor while maintaining adjacency among neighbors in the network. In the present case, "Hello packets" are transmitted without interruption as to avoid losing adjacency upon a fail over event -[0008]- In the event of network failure the router seamlessly maintains traffic flow without reconfiguring or interrupting traffic.).⁴

The Applicant respectfully disagrees. The Applicant respectfully submits the Examiner's attempt to equate transmitting a hitless restart event based upon an event associated with said execution

² Office Action mailed June 8, 2007, ¶ 4.

³ Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

⁴ Office Action at ¶ 11.

of said dynamic routing module with sending Hello packets is improper. In support of the Examiner's statement, the Examiner refers to the following portion of Folkes et al.:

FIG. 3 is a flow diagram depicting in more detail the processing by the backup to establish itself as the active OSPF instance when a fail-over recovery occurs, in accordance with HA OSPF embodiments.
At step 301, fail-over starts and message flow-through ceases. At step 302, backup OSPF instance 24 starts sending Hello packets to all known neighbors, including neighbors on virtual links, so that they will not time out and declare the local router down.⁵

The independent claims as presently amended require transmitting a hitless restart event based upon an event associated with said execution of said dynamic routing module, said hitless restart event signaling network enabled devices to continue forwarding packets to a cluster of network enabled devices, said routing device configured to route information for the cluster. The Hello message described in Folkes et al. does not signal network enabled devices to continue forwarding packets to a cluster of network enabled devices; the Hello message of Folkes et al. in and of itself is merely a message that indicates the sender is "alive," e.g. regardless of the synchronization state of the sender; it does not specifically signal network enabled devices to continue forwarding packets. Whereas the independent claims as presently amended specifically require that the hitless restart event signal network enabled devices to continue forwarding packets to a cluster of network enabled devices. With this Amendment, the independent claims have been amended to make this distinction more clear. As the limitations of the independent claims as presently amended are not taught or suggested by the cited art of record, the Applicant respectfully submits the claims are in condition for allowance.

⁵ Folkes et al. ¶¶ 48-49.

Dependent Claims 3-6, 8-10, 13-16, 18-20, 23-26, 28-30, 37-40, and 42

Claims 3-6 and 8-10 depend from Claim 1. Claims 13-16 and 18-20 depend from Claim 11. Claims 23-26, 28-30 depend from Claim 21. Claims 37-40 and 42 depend from Claim 35. Claims 1, 11, 21, and 35 being allowable, Claims 3-6, 8-10, 13-16, 18-20, 23-26, 28-30, 37-40, and 42 must also be allowable.

The First 35 U.S.C. § 103 Rejection

Claims 9, 19, and 29 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Folkes et al. in view of Frick et al.⁶, of which no claims are independent claims.⁷ This rejection is respectfully traversed.

Claims 9, 19, and 29 depend from Claims 1, 11, and 21, respectively. The arguments made above with respect to the 35 U.S.C. § 102 rejection of independent Claims 1, 19, and 29 apply here as well. The 35 U.S.C. § 102 rejection of Claims 1, 19, and 29 is unsupported by the cited art of record because each and every element as set forth in Claims 1, 19, and 29 is not found in Folkes et al. Accordingly, the 35 U.S.C. § 103 rejection of dependent claims 9, 19, and 29 based on Folkes et al. in view of Frick et al. is also unsupported by the cited art of record. Thus, a *prima facie* case has not been established and the rejection must be withdrawn.

The Second 35 U.S.C. § 103 Rejection

Claims 43 and 44 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Folkes et al.⁸ With this Amendment, Claims 43 and 44 have been cancelled without

⁶ U.S. Publication No. 2004/0001485 to Frick et al.

⁷ Office Action at p. 9.

⁸ Office Action at p. 9.

prejudice or disclaimer, rendering the rejection of Claim 43 and 44 moot. Accordingly, withdrawal of the rejection is respectfully requested.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

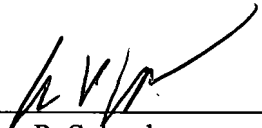
The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

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